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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,262	03/17/2004	Edward G. Shifrin	885/9-1928	4333

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EXAMINER

GANESAN, SUBA

ART UNIT PAPER NUMBER

3738

DATE MAILED: 12/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/802,262	SHIFRIN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Suba Ganesan	3738	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 March 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Objections*

1. Claim 1 is objected to because of the following informalities: "assemmbing" in line 8 appears to be a misspelling of the word 'assembling'. Appropriate correction is required.
2. Claim 3 is objected to because of the following informalities: the phrase "on one its bloodstream" in line 4 appears to be a typo of the phrase "on one, bloodstream". In addition, the word "anti-trombogeneous" appears to be a misspelling of the word "anti-thrombogeneous". Appropriate correction is required.
3. Claims 10 and 16 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim must refer back in the alternative to more than one preceding independent or dependent claim. See MPEP § 608.01(n). Accordingly, the claims 10 and 16 have not been further treated on the merits.

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claim 1 recites the limitation "additional tube" in line 37. There is insufficient antecedent basis for this limitation in the claim. Furthermore, it is unclear which structure or feature "additional tube" refers to.

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3. Claim **17** recites the limitation "said at least one control lever" in line 1. There is insufficient antecedent basis for this limitation in the claim. Furthermore, claim 1 from which claim 17 depends simply recites "control means configured substantially as a control lever" this limitation does not specify that the control means must be a lever.
4. Claims **18-20** recite the limitation "additional tube" and "spring-loaded pusher" in line 3. There is insufficient antecedent basis for this limitation in the claim.
5. Claim **22** recites the limitation "said set of assembly units" in line 6; "said actuators" in line 15; "its hold down bus" in line 18; "said L-shaped lever" in line 27; said U-shaped staples" in line 29; "said spring-loaded fixing bushes" in line 31; "said hold-down bush" in line 36; and "the withdrawn single-use system". There is insufficient antecedent basis for these limitations in the claim.

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims **1, 2, 5-6, and 18-20** are rejected under 35 U.S.C. 102(b) as being anticipated by Marin et al. (U.S. Pat. No. 5443477). Marin et al. discloses a graft (**46**) with a set of assembly units containing a proximal head (**48a**) having a through axial hole with an actuator (**82**). Proximal head is sutured to the graft (**46**) and expands to anchor the graft to a blood vessel wall (see col. 4 lines 51-54, and fig. 1). Marin et al.

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further discloses a distal head (48b) having a through axial hole and means for holding the graft and anchoring to the blood vessel wall. Marin et al. also includes a hollow intermediate tube (64) connecting the distal and proximal heads, as well as a control means (54). Intermediate tube (64) connects the distal head and the control lever, and flexible control element (78) passes through the axial holes of the proximal head, distal head, and intermediate tubes. With respect to claim 2, Marin discloses the graft material being TEFLON (col. 4 lines 51-54). With respect to claim 5, the graft is set on an intermediate tube and secured by its ends to the distal and proximal heads (see fig. 1). Marin et al discloses a vein filter (122) (see fig. 1). With respect to claims 18-20, Marin et al. discloses a flexible control element (78) configured substantially as a wire. Examiner is interpreting a wire to be a thin cord, having a shape substantially the same as a plastic thread.

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marin et al. (U.S. Pat. No. 5443477) in view of Davidson (U.S. Pat. No. 5713947).

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Marin et al. discloses same as above, however, Marin et al. does not disclose an anti-thrombogeneous or titanium coating. Davidson teaches the coating of an implant with titanium or anti-thrombogeneous coating (col. 7, lines 35-64). It would have been obvious to one of ordinary skill in the art to modify the graft of Marin et al. to include a titanium or anti-thrombogeneous coating as taught by Davidson for the purpose of enhancing biocompatibility of the implanted graft.

#### ***Allowable Subject Matter***

10. Claims **7-9, 11-15, 17, and 21** would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

11. Claim **22** would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suba Ganesan whose telephone number is 571-272-3243. The examiner can normally be reached on M-F 8-5.

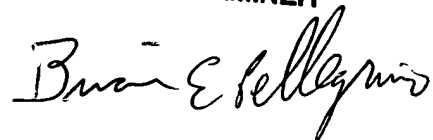
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on 571-272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SDG 12/1/2006

**BRIAN E. PELLEGRINO**  
**PRIMARY EXAMINER**

A handwritten signature in black ink that reads "Brian E. Pellegrino". The signature is written in a cursive, flowing style.